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DEC - 4 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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ADMITTED IN VA & DC

December 4, 1998

OUR FILE NO.  
1031-104-63

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Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20554

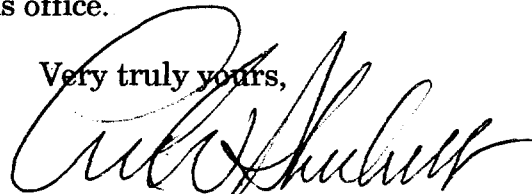
Re: Reply Comments of Wine Country Radio respecting  
**MM Docket No. 98-93**

Dear Ms. Salas:

Transmitted herewith are an original and four copies of the Reply  
Comments of **WINE COUNTRY RADIO** respecting the *Notice of Proposed Rule  
Making and Order*, FCC 98-117, released June 15, 1998, in MM Docket No. 98-93.

Should further information be desired in connection with this matter,  
kindly communicate directly with this office.

Very truly yours,



Lee W. Shubert

Enclosures (5)

LWS/dh

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DEC - 4 1998

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
1998 Biennial Regulatory Review ) MM Docket No. 98-93  
– Streamlining of Radio Technical )  
Rules in Parts 73 and 74 of the )  
Commission's Rules )

To: The Commission

**REPLY COMMENTS**

WINE COUNTRY RADIO, pursuant to the *Notice of Proposed Rule Making and Order*, FCC 98-117, released June 15, 1998, hereby submits its reply comments in support of the above-captioned proceeding:

Wine Country supports the Commission's proposed increase to a minimum of six kilometers, the spacing to second and third adjacent channel FM broadcast stations. With its proposal, the Commission will allow needed relief to second and third adjacent channel stations that need more space than that which is currently provided for in 47 C.F.R. § 73.215(e).

The National Association of Broadcasters has objected to this proposal on the grounds that it is likely to cause greater interference with less advanced listening technologies, such as home stereos and portable receivers. The NAB does not believe that terrain interference will be sufficient to prevent increased interference from decreased mileage separation. This objection cannot be sustained as meritorious where the proposed changes would not decrease the

interference requirements. In fact, the new transmitter facility must still leave a 40 dB separation between the pertinent contours; and the proponent of the transmitter must also demonstrate that the site can meet the required separation of desired to undesired signal. *See the Engineering Statement of Lieberman & Walisko, appended hereto as Attachment No. 1.*

The Commission proposes to extend the Point-to-Point (“PTP”) prediction methodology to all stations, regardless of whether a station has actually received its license. Opposition to this proposal has been voiced by Redwood Empire Stereocasters (“RES”). RES’ aim is to prevent the extension of the PTP rule to stations where the construction permit or license application is being challenged on the basis of the station’s city-grade coverage.

The fault with the proposal is that it would work to deprive a community of service rather than allowing the station to promptly remedy potential problems. Also, RES provides no reasonable justification for the bifurcation of treatment between licensed and unlicensed facilities, when both groups would have received prior Commission authorization to construct a station. In fact, RES proposes a “Pandora’s Box.” Simply stated, any party could sabotage the Commission’s entire licensing procedures simply by challenging a license application – notwithstanding that the Commission’s Rules do not routinely contemplate such challenges – on the grounds of city grade coverage. If the Commission desires to maintain its orderly process, it must continue to recognize that the time to challenge an authorization is in connection with the

authorization of the permit, not a license. Hence, Wine Country Radio strongly objects to the proposal advanced by RES, and supports the Commission's PTP proposal.

For the reasons stated above, Wine Country Radio supports the Commission's proposal for Point-to-Point prediction methodology, and opposes the comments filed by Redwood Empire Stereocasters.

Respectfully submitted,  
**WINE COUNTRY RADIO**

By: 

Lee W. Shubert, Esq.  
Its Attorney

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December 4, 1998

## **ATTACHMENT NO. 1**

### **Engineering Statement of Lieberman & Walisko**

DR/L

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**ENGINEERING STATEMENT**

This engineering statement supports the Reply Comments of Wine Country Radio, Inc. in the matter of MM Docket 98-93, "1998 Biennial Review - Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules". These reply comments specifically address the comments submitted regarding the Commission's proposed increase to a minimum of 6 kilometers, the spacing to second and third adjacent channel FM broadcast stations.

In MM Docket 98-93, the Commission recognized relief is necessary to second and third adjacent channel stations who need more than what is afforded by 47 C.F.R. Section §73.215(e) of the rules. In the case of Class A stations, their "window" to move from 31 kilometers as specified in 47 C.F.R. Section §73.207 to 29 kilometers as specified in 47 C.F.R. Section §73.215 provides little or no relief with respect to resiting their transmitter location. The instant proposal in MM Docket 98-93 affords such relief.

The NAB opposition to this proposal is without merit. In its comments<sup>1</sup>, the NAB cites its opposition on the basis that this proposal would result in reduced mileage separations. Additionally, the NAB adds further objections<sup>2</sup> on the basis the change "would likely have a considerably negative impact on home stereo and portable receivers, and on some lesser expensive automotive receivers".

We reject the notion that allowing a second or third adjacent channel station greater latitude to relocate its transmitter would create new interference problems. The Commission, in its proposed rule changes, is not allowing a change in the ratio of desired to undesired signal. It is merely allowing the undesired station a little more room with which to relocate its transmitter. The proposed transmitter facility will still have to provide a 40 dB separation between the pertinent contours as is presently required.

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<sup>1</sup>NAB Comments, Executive Summary, page ii, Par. 1

<sup>2</sup>NAB Comments, Page 23, Par. 2

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**ENGINEERING STATEMENT (Cont'd)**

Whether or not the proposed site can be engineered to accommodate the required separation of desired to undesired signal is the burden of the proponent. If the terrain is such that the desired contour allows for a transmitter move of up to 6 kilometers (assuming that is the value the Commission finally concludes is adequate for Class A stations), the proponent must still provide for an antenna design that produces a signal of no greater than 100 dBu (f50,10) at the desired station's 60 dBu (f50,50) contour.

Likewise, the proposed station's 60 dBu (f50,50) contour must not be invaded by the existing station's 100 dBu (f50,10) contour. If a directional antenna is required, this must be done with no more than a 15 dB front to back pattern ratio as prescribed in 47 C.F.R. Section §73.316.

While this might be difficult to achieve in states like Florida where the terrain is flat, it would certainly be possible in those states like Colorado or Utah where the land is mountainous.

To support this argument, we have attached hereto Exhibit 1, which depicts the contours of two hypothetical stations. The station named Silverton was taken from an actual site used in an application for a construction permit. The contours were constructed using computer technology from methodology described in 47 C.F.R. Section §73.313. The site of the hypothetical station was placed at 26 kilometers from the Silverton station. This corresponds to a 6 kilometer "move-in" from the distance specified in 47 C.F.R. Section §73.207. The effective radiated power of both "stations" was adjusted to compensate for the high above average terrain found in this area. No prohibited overlap of desired to undesired contours is present.

In flat terrain, this would not be possible. Since the undesired 100 dBu (f50,10) contour extends to 2.77 kilometers at 6.0 kilowatts at 100 meters above average terrain, the amount of lateral move toward the

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**ENGINEERING STATEMENT (Cont'd)**

protected station is severely limited. Thus, a movement toward the protected station in excess of 2 kilometers would cause contour overlap.

Exhibit II, depicts two fully spaced class A stations each operating at 6 kilowatts at 100 meters above average terrain. The contours are respectively the 60 dBu (f50,50) and 100 dBu (f50,10). Because of the flat terrain these stations can move no closer to each other without increasing the slight overlap that exists at a fully spaced 31 kilometer separation.

However, as demonstrated herein, in mountainous terrain this would not obtain and a lateral move in excess of the 2 kilometers presently allowed for in 47 C.F.R. Section §73.215 could be allowed.



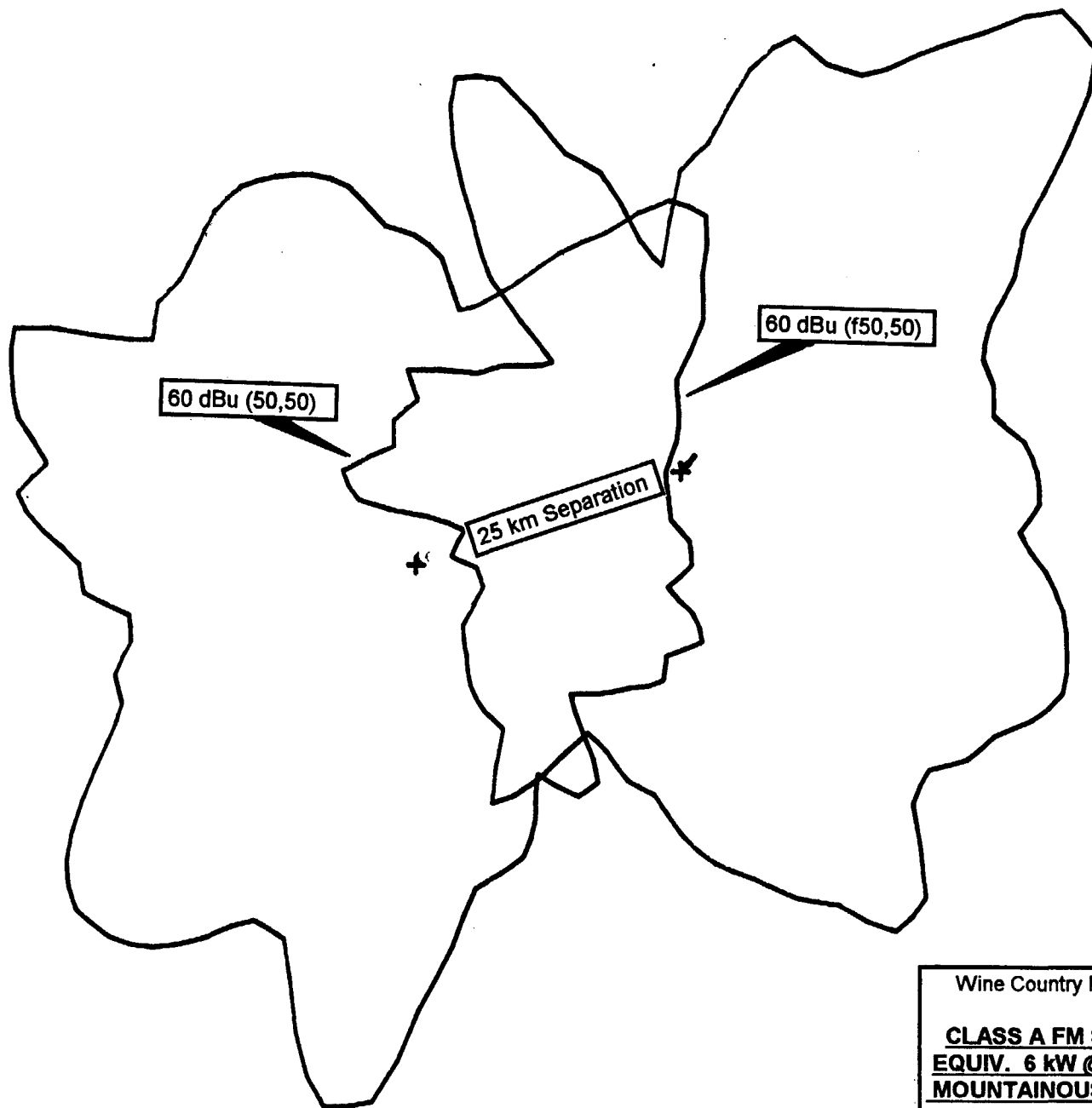


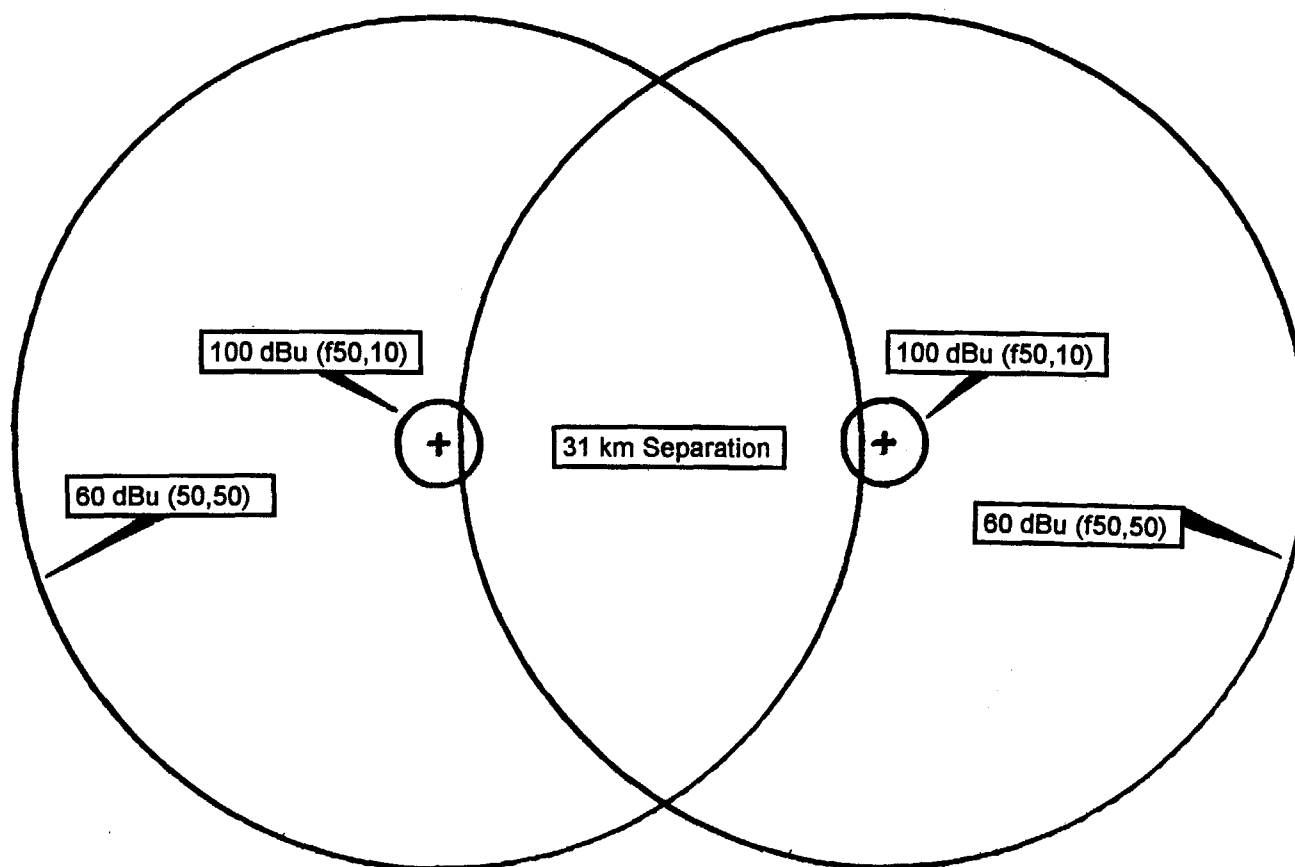
EXHIBIT I

Wine Country Radio, Inc.

**CLASS A FM STATIONS**  
**EQUIV. 6 kW @ 100m AAT**  
**MOUNTAINOUS TERRAIN**

Nov. 1998 Lieberman & Walisko

SCALE 1:500,000



SCALE 1:500,000

EXHIBIT II

Wine Country Radio, Inc.

**CLASS A FM STATIONS**  
**6 kW @ 100m AAT**  
**FLAT TERRAIN**

Nov. 1998 Lieberman & Walisko

**LIEBERMAN & WALISKO**  
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**DECLARATION**

**MELVYN LIEBERMAN**, declares and certifies as follows:

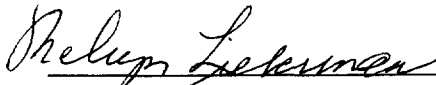
That he is associated with the firm of **LIEBERMAN & WALISKO, Inc.**;

That this firm has been retained by **Wine Country Radio, Inc.** to  
prepare this Engineering Statement;

That his qualifications are a matter of record with the Federal  
Communications Commission;

That he has either prepared or directly supervised the preparation  
of all technical material contained in this engineering statement and that the  
facts stated in this report are true of his knowledge and belief except as to  
such statements as are herein stated to be on information and belief and as to  
such statements, he believes them to be true.

11/3/98  
Date

  
Melvyn Lieberman

## CERTIFICATE OF SERVICE

The undersigned, an employee of Haley Bader & Potts P.L.C., hereby certifies that the foregoing document was mailed this date by First Class U.S. Mail, postage prepaid, or was hand-delivered\*, to the following:

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December 4, 1998